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APPENDIX III.

[Vide item III on page 105 supra.]

L.A. BILL No. 6 OF 1958.

(As passed by the Assembly.)

A Bill to consolidate and amend the laws relating to the levy of a general tax on the sale or purchase of goods in the State of Madras.

WHEREAS it is expedient to consolidate and amend the laws relating to the levy of a general tax on the sale or purchase of goods in the State of Madras;

BE it enacted in the Tenth Year of the Republic of India as follows :—

1. *Short title, extent and commencement.*—(1) This Act may be called the Madras General Sales Tax Act, 1959.

(2) It extends to the whole of the State of Madras.

(3) It shall come into force on such date as the Government may, by notification, appoint.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(a) " Appellate Assistant Commissioner " means any person appointed to be an Appellate Assistant Commissioner under section 28;

(b) " Appellate Tribunal " means the Tribunal appointed under section 30;

(c) " assessing authority " means any person authorized by the Government or by any authority empowered by them, to make any assessment under this Act;

(d) " business " includes any trade, commerce or manufacture or any adventure or concern in the nature of trade, commerce or manufacture, whether or not any profit accrues from such trade, commerce, manufacture, adventure or concern;

(e) " casual trader " means a person who has, whether as principal, agent, or in any other capacity, occasional transactions of a business nature involving the buying, selling, supply or distribution of goods in the State, whether for cash, or for deferred payment, or for commission, remuneration, or other valuable consideration;

(f) " Commercial Tax Officer " means any person appointed to be a Commercial Tax Officer under section 28;

(g) " dealer " means any person who carries on the business of buying, selling, supplying or distributing goods, directly or

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otherwise, whether for cash, or for deferred payment, or for commission, remuneration or other valuable consideration, and includes—

(i) the Central Government, a State Government, local authority, company or Hindu undivided family, which carries on such business;

(ii) a casual trader;

(iii) a commission agent, a broker or a *del credere* agent, or an auctioneer or any other mercantile agent, by whatever name called, who carries on the business of buying, selling, supplying or distributing goods on behalf of any principal;

(iv) every local branch of a firm or company situated outside the State.

Explanation.—A society (including a co-operative society), club or firm or an association which, whether or not in the course of business, buys, sells, supplies or distributes goods from or to its members for cash, or for deferred payment, or for commission, remuneration or other valuable consideration, shall be deemed to be a dealer for the purposes of this Act;

(h) “declared goods” means goods declared by section 14 of the Central Sales Tax Act, 1956 (Central Act 74 of 1956), to be of special importance in inter-State trade or commerce;

(i) “Deputy Commissioner” means any person appointed to be a Deputy Commissioner of Commercial Taxes under section 28;

(j) “goods” means all kinds of movable property (other than newspapers, actionable claims, stocks and shares and securities) and includes all materials, commodities, and articles (including those to be used in the fitting out, improvement or repair of movable property); and all growing crops, grass or things attached to, or forming part of, the land which are agreed to be severed before sale or under the contract of sale;

(k) “Government” means the State Government;

(l) “place of business” includes a warehouse, godown or other place where a dealer stores his goods or a place where a dealer keeps his books of account;

(m) “registered dealer” means a dealer registered under this Act;

(n) “sale” with all its grammatical variations and cognate expressions means every transfer of the property in goods by one person to another in the course of business for cash or for deferred payment or other valuable consideration, and includes a transfer of property in goods involved in the execution of a works contract, but does not include a mortgage, hypothecation, charge or pledge;

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Explanation (1).—The transfer of property involved in the supply or distribution of goods by a society (including a co-operative society), club, firm, or any association to its members, for cash, or for deferred payment, or other valuable consideration, whether or not in the course of business shall be deemed to be a sale for the purposes of this Act.

Explanation (2).—A transfer of goods on the hire-purchase or other instalment system of payment shall, notwithstanding the fact that the seller retains the title in the goods as security for payment of the price, be deemed to be a sale.

Explanation (3).—(a) The sale or purchase of goods shall be deemed, for the purposes of this Act, to have taken place in the State, wherever the contract of sale or purchase might have been made, if the goods are within the State—

(i) in the case of specific or ascertained goods, at the time the contract of sale or purchase is made; and

(ii) in the case of unascertained or future goods, at the time of their appropriation to the contract of sale or purchase by the seller or by the purchaser, whether the assent of the other party is prior or subsequent to such appropriation.

(b) Where there is a single contract of sale or purchase of goods situated at more places than one, the provisions of clause (a) shall apply as if there were separate contracts in respect of the goods at each of such places.

Explanation (4).—Notwithstanding anything to the contrary contained in this Act, two independent sales or purchases shall, for the purposes of this Act, be deemed to have taken place—

(a) when the goods are transferred from a principal to his selling agent and from the selling agent to the purchaser, or

(b) when the goods are transferred from the seller to a buying agent and from the buying agent to his principal, if the agent is found in either of the cases aforesaid—

(i) to have sold the goods at one rate and to have passed on the sale-proceeds to his principal at another rate, or

(ii) to have purchased the goods at one rate and to have passed them on to his principal at another rate, or

(iii) not to have accounted to his principal for the entire collections or deductions made by him in the sales or purchases effected by him on behalf of his principal;

(o) " State " means the State of Madras;

(p) " taxable turnover " means the turnover on which a dealer shall be liable to pay tax as determined after making such deductions from his total turnover and in such manner as may be prescribed;

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(q) "total turnover" means the aggregate turnover in all goods of a dealer at all places of business in the State, whether or not the whole or any portion of such turnover is liable to tax;

(r) "turnover" means the aggregate amount for which goods are bought or sold, or supplied or distributed, by a dealer, either directly or through another, on his own account or on account of others whether for cash or for deferred payment or other valuable consideration, provided that the proceeds of the sale by a person of agricultural or horticultural produce, other than tea, grown within the State by himself or on any land in which he has an interest whether as owner, usufructuary mortgagee, tenant or otherwise, shall be excluded from his turnover;

Explanation (1).—"Agricultural or horticultural produce" shall not include such produce as has been subjected to any physical, chemical or other process for being made fit for consumption, save mere cleaning, grading, sorting or drying;

Explanation (2).—Subject to such conditions and restrictions, if any, as may be prescribed in this behalf—

(i) the amount for which goods are sold shall, in relation to a works contract, be deemed to be the amount payable to the dealer for carrying out such contract, less such portion as may be prescribed of such amount, representing the usual proportion of the cost of labour to the cost of materials used in carrying out such contract;

(ii) the amount for which goods are sold shall include any sums charged for anything done by the dealer in respect of the goods sold at the time of, or before the delivery thereof;

(iii) any cash or other discount on the price allowed in respect of any sale and any amount refunded in respect of articles returned by customers shall not be included in the turnover; and

(iv) where for accommodating a particular customer, a dealer obtains goods from another dealer and immediately disposes of the same to the said customer, the sale in respect of such goods shall be included in the turnover of the latter dealer but not in that of the former;

(s) "works contract" means any agreement for carrying out for cash or for deferred payment or other valuable consideration, the fitting out, improvement or repair of any movable property;

(t) "year" means the financial year.

3. *Levy of taxes on sales or purchases of goods.*—(1) Every dealer (other than a casual trader or agent of a non-resident dealer) whose total turnover for a year is not less than ten thousand rupees and every casual trader or an agent of a non-resident dealer, whatever be his turnover for the year, shall pay a tax for each year at the rate of two per cent of his taxable turnover:

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Provided that—

(i) in the case of foodgrains, namely, wheat, paddy, (rice in husk), rice (husked paddy), cholam, cumbu, ragi, thinal, varagu, samai and kudiraivali and in the case of rice products (for example, rice nour and rice bran), wheat products (for example, wheat flour, sooji and wheat bran), milk, fresh vegetables (other than those mentioned in the First Schedule), fresh fruits, betel and plantain leaves, flowers, eggs, meat and fish (other than canned meat and fish), the rate shall be one per cent.

(ii) dealers dealing exclusively in one or more of the goods enumerated in the foregoing clause except foodgrains, rice products, wheat products and milk and whose total turnover for a year is not more than thirty thousand rupees shall not be liable to pay tax under this sub-section.

(2) Notwithstanding anything contained in sub-section (1) in the case of goods mentioned in the First Schedule, the tax under this Act shall be payable by a dealer, at the rate and only at the point specified therein on the turnover in each year relating to such goods whatever be the quantum of turnover in that year.

(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), the tax payable by a dealer in respect of any sale of goods mentioned in the First Schedule by such dealer to another for use by the latter as component part of any other goods mentioned in that Schedule, which he intends to manufacture for sale inside the State, shall be at the rate of only one per cent on the turnover relating to such sale :

Provided that the provisions of this sub-section shall not apply to any sale unless the dealer selling the goods furnishes to the assessing authority in the prescribed manner a declaration duly filled in and signed by the dealer to whom the goods are sold containing the prescribed particulars in a prescribed form obtained from the prescribed authority.

4. *Tax in respect of declared goods.*—Notwithstanding anything contained in section 3, the tax under this Act shall be payable by a dealer on the sale or purchase inside the State of declared goods at the rate and only at the point specified against each in the Second Schedule on the turnover is such goods in each year whatever be the quantum of turnover in that year.

Provided that where a tax has been levied under this section in respect of the sale or purchase of declared goods and such goods are sold in the course of inter-State trade or commerce the tax so levied shall be refunded to such person in such manner and subject to such conditions as may be prescribed.

5. *Tax on goods purchased by dealers registered under Central Act 74 of 1956.*—Notwithstanding anything contained in sub-section (1) of section 3, every dealer registered under sub-section (3)

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of section 7 of the Central Sales Tax Act, 1956 (Central Act 74 of 1956), shall, whatever be the quantum of his turnover, pay tax for each year in respect of the sale of goods with reference to the purchase of which he has furnished a declaration under sub-section (4) of section 8 of the aforesaid Central Act, at the rates specified hereunder—

(a) one per cent of his taxable turnover, in the case of goods mentioned in clause (i) of the proviso to sub-section (1) of section 3;

(b) two per cent of his taxable turnover in the case of other goods liable to tax under sub-section (1) of section 3.

6. *Tax under this Act to be in addition to the tax under Central Act 74 of 1956 or any other law.*—The provision of this Act relating to taxation of successive sales or purchases inside the State, only at a single point or at one or more points shall apply only to sales or purchases inside the State (other than sales or purchases in the course of inter-State trade or commerce) and the tax under this Act shall be levied in addition to any tax levied under the Central Sales Tax Act, 1956 (Central Act 74 of 1956) or any other law for the time being in force.

7. *Payment of tax at compounded rates.*—(1) Notwithstanding anything contained in sub-section (1) of section 3, every dealer whose total turnover is not less than ten thousand rupees but not more than twenty-five thousand rupees, may at his option instead of paying the tax in accordance with the provisions of that sub-section pay tax at the following rates, namely:—

	<i>Rate of tax.</i>
(i) Where the total turnover is not less than ten thousand rupees, but is less than fifteen thousand rupees.	One hundred and twenty rupees per annum.
(ii) Where the total turnover is not less than fifteen thousand rupees, but is less than twenty thousand rupees.	One hundred and eighty rupees per annum.
(iii) Where the total turnover is not less than twenty thousand rupees, but is not more than twenty-five thousand rupees.	Two hundred and forty rupees per annum.

(2) Any dealer who estimates his total turnover for a year to be not more than twenty-five thousand rupees may apply to the assessing authority to be permitted to pay the tax under this section and on being so permitted he shall pay the tax due in advance during the years in monthly or prescribed instalments and for that purpose shall submit such returns in such manner as may be prescribed.

(3) The tax paid under sub-section (2) shall be subject to such adjustment as may be prescribed on the completion of final assessment in the manner prescribed.

8. *Exemption from tax.*—Subject to such restrictions and conditions as may be prescribed, a dealer who deals in the goods specified in the Third Schedule shall not be liable to pay any tax under this Act in respect of such goods.

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9. *Stage of levy of taxes in respect of imported and exported goods.*—Where in the case of any goods tax is leviable at one point in a series of sales or purchases, such series shall—

(a) in the case of goods imported into the State either from outside the territory of India or from any other State in India, be deemed to commence at the stage of the sale or purchase effected immediately after the import of such goods;

(b) in the case of goods exported out of the State to any place outside the territory of India or to any other State in India, be deemed to conclude at the stage of sale or purchase effected immediately before the export of such goods.

10. *Burden of proof.*—The burden of proving that any dealer or any of his transactions is not liable to tax under this Act shall lie on such dealer.

11. *Assessment of tax.*—The tax under this Act shall be assessed, levied and collected in such manner as may be prescribed.

12. *Procedure to be followed by the assessing authority.*—(1) The assessment of a dealer shall be on the basis of the prescribed return relating to his turnover submitted in the prescribed manner within the prescribed period.

(2) If no return is submitted by the dealer under sub-section (1) within the prescribed period, or if the return submitted by him appears to the assessing authority to be incomplete or incorrect the assessing authority shall, after making such enquiry as it may consider necessary, assess the dealer to the best of its judgment:

Provided that before taking action under this sub-section, the dealer shall be given a reasonable opportunity of proving the correctness or completeness of any return submitted by him.

(3) When making any assessment under sub-section (2), the assessing authority may also direct the dealer to pay, in addition to the tax assessed, a penalty not exceeding one and a half times the amount of tax due on the turnover that was not disclosed by the dealer in his return or, in the case of failure to submit a return, one and half times the tax assessed, as the case may be.

13. *Provisional assessment.*—(1) The tax for each year payable under any of the provisions of this Act may be assessed, levied and collected in advance during the year in monthly or other prescribed instalments, and for that purpose a dealer may be required to furnish within the prescribed period either an advance estimate of his turnover for the year, or such periodical returns of the actual turnover as may be prescribed. The assessing authority may determine the amount of tax payable in respect of any period and on such assessment the dealer shall pay the sum demanded within such time as may be fixed by such authority.

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(2) If no return is submitted by the dealer under sub-section (1) within the prescribed period, or if the return submitted by him is incomplete or incorrect, the assessing authority may determine, subject to such rules as may be prescribed, the amount of tax payable in respect of any period on the basis of the transactions of the dealer in the preceding year or the corresponding period of the preceding year, as the case may be :

Provided that before taking action under this sub-section on the ground that the return submitted by the dealer is incomplete or incorrect, the dealer shall be given a reasonable opportunity of proving the correctness or completeness of the return submitted by him.

(3) If the assessing authority has reason to believe that the provisional assessment made by it for any period was based on too low a turnover or was made at too low a rate or was based on too high a turnover or was made at too high a rate it may enhance or reduce, as the case may be, such provisional assessment :

Provided that before making an enhancement of the provisional assessment as aforesaid, the assessing authority shall, except where such enhancement is based on the turnover finally determined for the preceding year, give a reasonable opportunity to the dealer to show cause against such enhancement and make such enquiry as it may consider necessary.

(4) The assessment, levy and collection of tax under this section shall be subject to such adjustment as may be prescribed on the completion of final assessment in the manner prescribed.

14. Fresh assessment in certain cases.—(1) Any dealer assessed under sub-section (2) of section 12 may, within a period of thirty days from the date of service of the assessment order, apply to the assessing authority for re-assessment, along with the correct and complete return as prescribed. On such application, the assessing authority shall, if it is satisfied that the failure to submit the return in time or the submission of the incorrect or incomplete return was due to reasons beyond the control of the applicant, cancel the assessment made and make a fresh assessment on the basis of the return submitted :

Provided that no application shall be entertained under this sub-section unless it is accompanied by satisfactory proof of the payment of tax admitted by the applicant to be due or any such instalment thereof as might have become payable, as the case may be.

(2) If the amount of tax on the basis of the cancelled assessment has already been collected and if the amount of tax arrived at as a result of the fresh assessment is different from it, any amount overpaid by the dealer shall be refunded to him without interest, or the further amount of tax, if any, due from him shall be collected in accordance with the provisions of this Act, as the case may be.

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(3) Penalty, if any imposed and collected under sub-section (3) of section 12, shall be refunded to the dealer without interest on cancellation of the order of original assessment.

15. *Assessment of legal representatives.*—Where a dealer dies, his executor, administrator, or other legal representative shall be deemed to be the dealer for the purposes of this Act and the provisions of this Act shall apply to him in respect of the business of the said deceased dealer, provided that, in respect of any tax or fee assessed as payable by any such dealer or any tax or fee which would have been payable by him under this Act if he had not died, the executor, administrator or other legal representative shall be liable only to the extent of the assets of the deceased in his hands.

16. *Assessment of escaped turnover.*—(1) Where, for any reason, the whole or any part of the turnover of business of a dealer has escaped assessment to tax or has been assessed at a rate lower than the rate at which it is assessable, the assessing authority, may subject to the provisions of sub-section (2), at any time within a period of five years from the expiry of the year to which the tax relates, assess the tax payable on such turnover after service of notice on the dealer and after making such enquiry as it may consider necessary.

(2) In making an assessment under sub-section (1), the assessing authority may, if it is satisfied that the escape from assessment is due to wilful non-disclosure of assessable turnover by the dealer, direct the dealer to pay, in addition to the tax assessed under sub-section (1), a penalty not exceeding one and a half times the tax so assessed :

Provided that no penalty under sub-section (2) shall be imposed unless the dealer affected has had a reasonable opportunity of showing cause against such imposition.

(3) The powers under sub-section (1) may be exercised by the assessing authority even though the original order of assessment, if any, passed in the matter has been the subject-matter of an appeal or revision.

(4) In computing the period of limitation for assessment of the escaped turnover under this section, the time during which the proceedings for assessment remained stayed under the orders of a Civil Court or other competent authority shall be excluded.

17. *Power of Government to notify exemptions and reductions of tax.*—(1) The Government may, by notification, make an exemption, or reduction in rate, in respect of any tax payable under this Act—

(i) on the sale or purchase of any specified goods or class of goods, at all points or at a specified point or points in the series of sales by successive dealers; or

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(ii) by any specified class of persons, in regard to the whole or any part of their turnover.

(2) Any exemption from tax, or reduction in the rate of tax, notified under sub-section (1)—

(a) may extend to the whole State or to any specified area or areas therein;

(b) may be subject to such restrictions and conditions as may be specified in the notification.

(3) The Government may, by notification, cancel or vary any notification issued under sub-section (1).

18. *Liability to tax of persons not observing restrictions and conditions notified under section 17.*—If any restriction or condition notified under section 17 is contravened or is not observed by a dealer, the sales or purchases of such dealer may, with effect from the commencement of the year in which such contravention or non-observation took place, be assessed to tax or taxes under the appropriate provisions of this Act as if the provisions of the notification under section 17 did not apply to such sales or purchases.

19. *Liability of firms.*—(1) Where any firm is liable to pay any tax or other amount under this Act, the firm and each of the partners of the firm shall be jointly and severally liable for such payment.

(2) Where a partner of a firm liable to pay any tax or any amount under this Act retires, he shall, notwithstanding any contract to the contrary, be liable to pay the tax or other amount remaining unpaid at the time of his retirement and any tax or other amount due up to the date of retirement, though unassessed.

20. *Registration of dealers.*—(1) Every dealer whose total turnover in any year is not less than seven thousand five hundred rupees shall, and any other dealer may, get himself registered under this Act.

(2) Notwithstanding anything contained in sub-section (1)—

(i) every dealer carrying on business in all or any of the goods mentioned in the First and Second Schedules;

(ii) every casual trader;

(iii) every dealer registered under sub-section (3) of section 7 of the Central Sales Tax Act, 1956 (Central Act 74 of 1956);

(iv) every dealer residing outside the State, but carrying on business in the State;

(v) every agent of a non-resident dealer; and

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(vi) every commission agent, broker, *del credere* agent auctioneer, or any other mercantile agent, by whatever name called, who carries on the business of buying, selling, supplying or distributing goods on behalf of any principal shall get himself registered under this Act, irrespective of the quantum of his total turnover in such goods.

(3) Nothing contained in this section shall apply to any State Government or the Central Government.

21. *Procedure for registration.*—(1) An application for registration shall be made to such authority, in such manner and within such period as may be prescribed and shall be accompanied by a fee of ten rupees.

(2) If the prescribed authority is satisfied that the application is in order it shall register the applicant and issue to him a certificate in the prescribed form.

(3) A certificate issued under sub-section (2) shall be valid for a year and shall be renewed from year to year on payment of the fee specified in sub-section (1).

(4) A dealer registered under sub-section (1) or section 20 shall be entitled to have his registration cancelled, if he is able to prove to the satisfaction of the prescribed authority that his turnover in each of the two consecutive years immediately preceding the application was less than seven thousand five hundred rupees.

(5) The prescribed authority shall have power for good and sufficient reasons—

(i) to cancel, modify or amend any registration certificate issued by him; and

(ii) to demand from any dealer who has been registered or has applied for registration under this sub-section, security for proper payment of tax by him for an amount not exceeding one half of the tax payable on the turnover of the dealer for the year as estimated by the prescribed authority.

(6) No application for registration and no renewal under this section shall be refused and no order under sub-section (5) shall be made, unless the dealer concerned has been given an opportunity of being heard.

(7) A dealer shall, until his registration is cancelled, be liable to pay the fees specified in sub-section (1) for every year subsequent to that in which he applied for registration :

Provided that when a dealer has ceased to do business in any year, and gives notice of the same to the prescribed authority, the shall not be liable to pay any registration fee from the commencement of the following year unless he resumes business.

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22. *Collection of tax by dealer.*—(1) No person who is not a registered dealer shall collect any amount by way of tax under this Act; nor shall a registered dealer make any such collection except in accordance with such conditions and restrictions, if any, as may be prescribed.

(2) If any dealer or person who is not liable to tax under this Act collects any amount purporting to be by way of tax, such dealer or person shall pay over to the Government within such time and in such manner as may be prescribed all amounts so collected.

(3) If any dealer or person collects tax on transactions not liable to tax under this Act or in excess of the tax leviable under this Act, such dealer or person shall pay over to the Government, in addition to the tax payable the amount so collected.

23. *Levy of penalty in certain cases.*—If any person purchasing goods is guilty of an offence under clause (e) of sub-section (2) of section 45, the assessing authority, may, after giving him a reasonable opportunity of being heard, by order in writing impose upon him by way of penalty a sum not exceeding one and a half times the tax payable on the turnover relating to the sale of such goods at a rate which is equal to the rate prescribed in the First Schedule less one per cent :

Provided that no prosecution for an offence under section 45 shall be instituted in respect of the same facts on which a penalty has been imposed under this section.

24. *Payment and recovery of tax.*—(1) The tax assessed under this Act shall be paid in such manner and in such instalments, if any, and within such time, as may be specified in the notice of assessment, not being less than twenty-one days from the date of service of the notice. If default is made in paying according to the notice of assessment, the whole of the amount outstanding on the date of default shall become immediately due and shall be a charge on the properties of the person or persons liable to pay the tax under this Act.

(2) Any tax assessed on, or any other amount due under this Act form, a dealer or person and any fee from him under this Act, may without prejudice to any other mode of collection be recovered—

(a) as if it were an arrear of land revenue, or

(b) on application to any Magistrate, by such Magistrate as if it were a fine imposed by him :

Provided that no proceeding for such recovery shall be taken or continued as long as he has, in regard to the payment of such tax, other amount or fee, as the case may be, complied with an order by any of the authorities to whom the dealer or person has appealed or applied for revision, under sections 31, 33, 35, 36, 37 or 38.

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(3) If the tax assessed under this Act or any instalment thereof is not paid by any dealer or person within the time specified therefor in the notice of assessment or in the order permitting payment in instalments, the dealer or person shall pay by way of penalty, in addition to the amount due a sum equal to—

(a) half a per cent of such amount, for each month or part thereof for the first three months after the date specified for its payment;

(b) one per cent of such amount, for each month or part thereof subsequent to the first three months aforesaid.

25. *Recovery of penalty.*—Any penalty payable under this Act shall be deemed to be tax under this Act, for the purposes of collection and recovery and shall be without prejudice to the institution of any proceeding for an offence under this Act, or for the recovery of the entire amount remaining unpaid under this Act.

26. *Further mode of recovery.*—(1) The assessing authority may at any time or from time to time, by notice in writing (a copy of which shall be forwarded to the dealer at his last address known to the assessing authority) require any person from whom money is due or may become due to the dealer or any person who holds or may subsequently hold money for or on account of the dealer to pay to the assessing authority, either forthwith upon the money becoming due or being held at or within the time specified in the notice (not being before the money becomes due or is held) so much of the money as is sufficient to pay the amount due by the dealer in respect of arrears of tax or fee or the whole of the money when it is equal to or less than the arrears of tax or fee.

(2) The assessing authority may at any time or from time to time amend or revoke any such notice or extend the time for making any payment in pursuance of the notice.

(3) Any person making any payment in compliance with a notice under this section shall be deemed to have made the payment under the authority of the dealer and the receipt of the assessing authority shall constitute a good and sufficient discharge of the liability of such person to the extent of the amount referred to in the receipt.

(4) Any person making any payment to the dealer after receipt of the notice referred to in this section shall be personally liable to the assessing authority to the extent of the payment made or to the extent of the liability of the dealer for the amount due under this Act, whichever is less.

(5) Where any person to whom a notice under this section is sent objects to it on the ground that the sum demanded or any part thereof is not due by him to the dealer, or that he does not hold any money for or on account of the dealer, then nothing

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contained in this section shall be deemed to require such person to pay the sum demanded or any part thereof, to the assessing authority.

(6) Any amount which a person is required to pay to the assessing authority or for which he is personally liable to the assessing authority under this section shall, if it remains unpaid, be a charge on the properties of the said person and may be recovered as if it were an arrear of land revenue.

Explanation.—For the purposes of this section, the amount due to a dealer or money held for or on account of a dealer by any person shall be computed after taking into account such claims, if any, as may have fallen due for payment by such dealer to such person and as may be lawfully subsisting.

27. *Recovery of tax where business of dealer is transferred.*—Where the ownership of the business of a dealer liable to pay tax or other amount is transferred, any tax or other amount payable under this Act in respect of such business and remaining unpaid at the time of the transfer and any tax or other amount due up to the date of transfer though unassessed, may, without prejudice to any action that may be taken for its recovery from the transferor, be recovered from the transferee as if he were the dealer liable to pay such tax or other amount :

Provided that the recovery from the transferee of the arrears of taxes due for the period prior to the date of the transfer shall be limited to the value of the assets he obtained by transfer.

28. *Appointment of Deputy Commissioners of Commercial Taxes, Appellate Assistant Commissioners of Commercial Taxes, and Commercial Tax Officers.*—The Government may appoint as many Deputy Commissioners of Commercial Taxes, Appellate Assistant Commissioners of Commercial Taxes and Commercial Tax Officers as they think fit, for the purpose of performing the functions respectively conferred on them by or under this Act. Such officers shall perform the said functions within such local limits as the Government or any authority or officer empowered by them in this behalf may assign to them.

29. *Special powers of Commercial Tax Officers under Revenue Recovery Act.*—(1) A Commercial Tax Officer shall have the powers of a Collector under the Madras Revenue Recovery Act, 1864 (Madras Act II of 1864), and the Madras City Land Revenue Act, 1851 (Central Act XII of 1851), as amended by the Madras City Land Revenue (Amendment) Act, 1867 (Madras Act VI of 1867), for the purposes of recovery of any amount due under this Act.

(2) Subject to the provisions of sub-section (3) all Commercial Tax Officers shall, for the purposes of recovery of any amount due under this Act, have the powers of the Commissioners under

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the Madras Rent and Revenue Sales Act, 1839 (Central Act VII of 1839), for the sale of property distrained for any amount due under this Act.

(3) Notwithstanding anything contained in the Madras Rent and Revenue Sales Act, 1839 (Central Act VII of 1839), the Commercial Tax Officer in the exercise of the powers conferred by sub-section (2) shall be subject to the control and superintendence of the Deputy Commissioner and the Board of Revenue.

30. *Appellate Tribunal*.—(1) The Government shall appoint an Appellate Tribunal consisting of a Chairman and two other members to exercise the functions conferred on the Appellate Tribunal by or under this Act. The Chairman shall be a Judicial Officer not below the rank of a District Judge and the other two members shall possess such qualifications as may be prescribed.

(2) Any vacancy in the membership of the Appellate Tribunal shall be filled by the Government.

(3) (a) The functions of the Appellate Tribunal may be exercised—

(i) by a Bench consisting of all the members of the Appellate Tribunal, or

(ii) by a Bench consisting of two members nominated in this behalf by the Chairman, or

(iii) by a Bench consisting of the Chairman and another member nominated in this behalf by the Chairman, or

(iv) by a single member of the Appellate Tribunal nominated in this behalf by the Chairman, in cases where the total turnover as determined by the assessing authority does not exceed twenty-five thousand rupees.

Explanation.—The single member referred to in sub-clause (iv) may be either the Chairman or any other member :

Provided that, if any case which comes up before a single member (who is not the Chairman) or a Bench (of which the Chairman is not a member) involves a question of law, such single member or Bench may, in his or its discretion, reserve such case for decision by a Bench of which the Chairman shall be a member.

(b) Where an appeal or application is heard by all the three members of the Tribunal, and the members differ in opinion on any point, the point shall be decided in accordance with the opinion of the majority.

(c) Where an appeal or application is heard by a Bench consisting of two members, and the members are divided in their opinion on any point, the point shall be referred for decision to a Bench consisting of all the members.

(4) The Appellate Tribunal shall, with the previous sanction of the Government, make, by notification, regulations consistent with the provisions of this Act and the rules made thereunder for regulating the procedure and the disposal of its business.

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31. *Appeal to the Appellate Assistant Commissioner.*—(1) Any person objecting to an order passed by the appropriate authority under section 12, section 14, section 15, sub-sections (1) and (2) of section 16, section 18, section 23, section 27, sub-section (1) of section 41, or sub-section (3) of section 42, may, within a period of thirty days from the date on which the order was served on him in the manner prescribed, appeal against such order to the Appellate Assistant Commissioner :

Provided that the Appellate Assistant Commissioner may admit an appeal presented after the expiration of the said period if he is satisfied that the appellant had sufficient cause for not presenting the appeal within the said period :

Provided further that in the case of an order under section 12, section 14, section 15 or sub-sections (1) and (2) of section 16 no appeal shall be entertained under this sub-section unless it is accompanied by satisfactory proof of the payment of the tax admitted by the appellant to be due or of such instalments thereof as might have become payable as the case may be.

(2) The appeal shall be in the prescribed form and shall be verified in the prescribed manner.

(3) In disposing of an appeal, the Appellate Assistant Commissioner may, after giving the appellant a reasonable opportunity of being heard,

(a) in the case of an order of assessment—

(i) confirm, reduce, enhance or annul the assessment or the penalty or both;

(ii) set aside the assessment and direct the assessing authority to make a fresh assessment after such further inquiry as may be directed; or

(iii) pass such other orders as he may think fit; or

(b) in the case of any other order, confirm, cancel, or vary such order :

Provided that at the hearing of any appeal against an order of the assessing authority, the assessing authority shall have the right to be heard either in person or by a representative.

(4) Where as a result of the appeal any change becomes necessary in the order appealed against the Appellate Assistant Commissioner may authorize the assessing authority to amend such order, accordingly and on such amendment being made, any amount overpaid by the appellant shall be refunded to him without interest or the further amount of tax, if any, due from him shall be collected in accordance with the provisions of this Act, as the case may be.

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(5) Notwithstanding that an appeal has been preferred under sub-section (1), the tax shall be paid in accordance with the order of assessment against which the appeal has been preferred :

Provided that the Appellate Assistant Commissioner may, in his discretion, give such directions as he thinks fit in regard to the payment of the tax before the disposal of the appeal, if the appellant furnishes sufficient security to his satisfaction, in such form and in such manner as may be prescribed.

32. Special powers of the Deputy Commissioner.—(1) The Deputy Commissioner may, of his own motion, call for and examine an order passed or proceeding recorded by the appropriate authority under section 12, section 14, section 15, or sub-sections (1) and (2) of section 16 and may make such inquiry or cause such inquiry to be made and, subject to the provisions of this Act, may pass such order thereon as he thinks fit.

(2) The Deputy Commissioner shall not pass any order under sub-section (1), if—

(a) the time for appeal against the order has not expired;

(b) the order has been made the subject of an appeal to the Appellate Assistant Commissioner or the Appellate Tribunal, or of a revision in the High Court; or

(c) more than four years have expired after the passing of the order.

(3) No order under this section adversely affecting a person shall be passed unless that person has had a reasonable opportunity of being heard.

33. Powers of revision of Deputy Commissioner.—(1) Any person objecting to an order passed or proceeding recorded under this Act for which an appeal has not been provided for in section 31, may within a period of thirty days from the date on which a copy of the order or proceeding was served on him in the manner prescribed, file an application for revision of such order or proceeding to the Deputy Commissioner :

Provided that the Deputy Commissioner may admit an application for revision presented after the expiration of the said period, if he is satisfied that the applicant had sufficient cause for not presenting the application within the said period.

(2) An application for revision shall be in the prescribed form and shall be verified in the prescribed manner.

(3) On admitting an application for revision the Deputy Commissioner may call for and examine the record of the order or proceeding against which the application has been preferred and may make such inquiry or cause such inquiry to be made and, subject to the provisions of this Act pass such order thereon as he thinks fit.

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(4) Notwithstanding that an application has been preferred under sub-section (1), the tax, fee or other amount shall be paid in accordance with the order or proceeding against which the application has been preferred :

Provided that the Deputy Commissioner may in his discretion, give such directions as he thinks fit, in regard to the payment of such tax, fee or other amount, if the applicant furnishes sufficient security to his satisfaction in such form and in such manner as may be prescribed.

(5) No order under this section adversely affecting a person shall be passed unless that person has had a reasonable opportunity of being heard.

34. *Special powers of Board of Revenue.*—(1) The Board of Revenue may of its own motion, call for and examine an order passed or proceeding recorded by the appropriate authority under section 12, section 14, section 15, or sub-section (1) or (2) of section 16 or an order passed by the Appellate Assistant Commissioner under sub-section (3) of section 31 or by the Deputy Commissioner under sub-section (1) of section 32 and may make such inquiry or cause such inquiry to be made and subject to the provisions of this Act may pass such order thereon as it thinks fit.

(2) The Board of Revenue shall not pass any order under sub-section (1) if—

(a) the time for appeal against that order has not expired; or

(b) the order has been made the subject of an appeal to the Appellate Tribunal or of a revision in the High Court; or

(c) more than four years have expired after the passing of the order.

(3) No order under this section adversely affecting a person shall be passed unless that person has had a reasonable opportunity of being heard.

35. *Powers of revision by Board of Revenue.*—(1) Any person objecting to an order passed by the Deputy Commissioner under sub-section (3) of section 33, may within a period of 30 days from the date on which a copy of the order was served on him in the manner prescribed, file an application for revision of such order to the Board of Revenue :

Provided that the Board of Revenue may admit an application presented after the expiry of the said period if it is satisfied that the applicant had sufficient cause for not presenting the application within the said period.

(2) Such application for revision shall be in the prescribed form and shall be verified in the prescribed manner.

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(3) On admitting in application for revision, the Board of Revenue may call for and examine the record of the order against which the application has been preferred and may make such inquiry or cause such inquiry to be made and, subject to the provisions of this Act, pass such order thereon as it thinks fit. Such an order shall be final and shall not be liable to be questioned in any court of law.

(4) Notwithstanding that an application has been preferred under sub-section (1), the tax, fee or other amount shall be paid in accordance with the order against which the application has been preferred :

Provided that the Board of Revenue may, in its discretion give such directions as it thinks fit, in regard to the payment of such tax, fee or other amount, if the applicant furnishes sufficient security to its satisfaction in such manner as may be prescribed.

(5) No order under this section adversely affecting a person shall be passed unless that person has had a reasonable opportunity of being heard.

36. *Appeal to the Appellate Tribunal.*—(1) Any person objecting to an order passed by the Appellate Assistant Commissioner under sub-section (3) of section 31, or an order passed by the Deputy Commissioner under sub-section (1) of section 32 may, within a period of sixty days from the date on which the order was served on him in the manner prescribed, appeal against such order to the Appellate Tribunal :

Provided that the Appellate Tribunal may admit an appeal presented after the expiration of the said period if it is satisfied that the appellant had sufficient cause for not presenting the appeal within the said period.

(2) The appeal shall be in the prescribed form and shall be verified in the prescribed manner and shall be accompanied by such fee not exceeding one hundred rupees as may be prescribed.

(3) In disposing of an appeal, the Appellate Tribunal may, after giving the appellant a reasonable opportunity of being heard.

(a) in the case of an order of assessment—

(i) confirm, reduce, enhance or annul the assessment or penalty or both;

(ii) set aside the assessment and direct the assessing authority to make a fresh assessment after such further inquiry as may be directed; or

(iii) pass such other orders as it may think fit; or

(b) in the case of any other order, confirm, cancel or vary such order :

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Provided that at the hearing of any appeal against an order of the Appellate Assistant Commissioner or the Deputy Commissioner the assessing authority shall have the right to be heard either in person or by a representative;

Provided further that, if the appeal involves a question of law on which the Appellate Tribunal has previously given its decision in another appeal and either a revision petition in the High Court against such decision or an appeal in the Supreme Court against the order of the High Court thereon is pending, the Appellate Tribunal may defer the hearing of the appeal before it, till such revision petition in the High Court or the appeal in the Supreme Court is disposed of.

(4) Where as a result of the appeal any change becomes necessary in the order appealed against the Appellate Tribunal may authorise the assessing authority to amend such order accordingly and on such amendment being made any amount overpaid by the appellant shall be refunded to him without interest, or the further amount of tax, if any, due from him shall be collected in accordance with the provisions of this Act, as the case may be.

(5) Notwithstanding that an appeal has been preferred under sub-section (1), the tax shall be paid in accordance with the order of assessment against which the appeal has been preferred :

Provided that the Appellate Tribunal may, in its discretion, give such directions as it thinks fit in regard to the payment of the tax before the disposal of the appeal, if the appellant furnishes sufficient security to its satisfaction, in such form and in such manner as may be prescribed.

(6) (a) The appellant or the respondent may apply for review of any order passed by the Appellate Tribunal under sub-section (3) on the basis of the discovery of new and important facts which after the exercise of due diligence were not within his knowledge or could not be produced by him when the order was made :

Provided that no such application shall be preferred more than once in respect of the same order.

(b) The application for review shall be preferred in the prescribed manner and within one year from the date on which a copy of the order to which the application relates was served on the applicant in the manner prescribed and where the application is preferred by any party other than a departmental authority it shall be accompanied by such fee not exceeding one hundred rupees as may be prescribed.

(7) Except as provided in the rules made under this Act the Appellate Tribunal shall not have power to award costs to either of the parties to the appeal or review.

(8) Every order passed by the Appellate Tribunal under sub-section (3) or (6) shall be communicated in the manner prescribed

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to the appellant, the respondent, the authority from whose order the appeal was preferred, the Deputy Commissioner, if he is not such authority, and the Board of Revenue.

(9) Every order passed by the Appellate Tribunal under sub-section (3) in the case of any person whose total turnover as determined by the Appellate Tribunal is less than Rs. 50,000 shall subject to the provisions of sub-section (6) be final and every such order passed by the Appellate Tribunal in the case of any person whose total turnover as determined by the Appellate Tribunal is Rs. 50,000 or over shall subject to the provisions of sub-section (6) and section 38 be final.

37. *Appeal to the High Court.*—(1) Any person objecting to an order passed by the Board of Revenue under section 34 may, within a period of sixty days from the date on which the order was served on him in the manner prescribed appeal against such order to the High Court.

(2) The appeal shall be in the prescribed form and shall be verified in the prescribed manner.

(3) In disposing of an appeal, the High Court may, after giving the appellant a reasonable opportunity of being heard,

(a) in the case of an order of assessment—

(i) confirm, reduce, enhance, or annul the assessment or penalty or both;

(ii) set aside the assessment and direct the assessing authority to make a fresh assessment after such further inquiry as may be directed; or

(iii) pass such other orders as it may think fit; or

(b) in the case of any other order, confirm, cancel or vary such order:

Provided that at the hearing of any appeal the assessing authority shall have the right to be heard either in person or by a representative.

(4) Whereas a result of the appeal any change becomes necessary in the order appealed against, the High Court may authorise the assessing authority to amend such order accordingly and on such amendment being made, any amount over-paid by the appellant shall be refunded to him without interest, or the further amount of tax, if any, due from him shall be collected in accordance with the provisions of this Act, as the case may be.

(5) Every order passed in appeal under this section shall be final.

(6) Notwithstanding that an appeal has been preferred under sub-section (1), the tax shall be paid in accordance with the order of assessment against which the appeal has been preferred:

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Provided that the High Court may, in its discretion, give such directions as it thinks fit in regard to the payment of the tax before the disposal of the appeal, if the appellant furnishes sufficient security to its satisfaction, in such form and in such manner as may be prescribed.

(7) (a) The appellant or respondent may apply for review of any order passed by the High Court under sub-section (3), on the basis of the discovery of new and important facts which after the exercise of due diligence were not within his knowledge or could not be produced by him when the order was made.

(b) The application for review shall be preferred within such time and in such manner as may be prescribed, and shall, where it is preferred by the assessee, be accompanied by a fee of one hundred rupees.

38. *Revision by High Court.*—(1) In any case in which the total turnover as determined by the Appellate Tribunal is Rs. 50,000 or over and within sixty days from the date on which a copy of the order under sub-section (3) of section 36 is served in the manner prescribed, any person who objects to such order or the Deputy Commissioner may prefer a petition to the High Court on the ground that the Appellate Tribunal has either decided erroneously or failed to decide any question of law :

Provided that the High Court may admit a petition preferred after the period of sixty days aforesaid if it is satisfied that the petitioner had sufficient cause for not preferring the petition within the said period.

(2) The petition shall be in the prescribed form, shall be verified in the prescribed manner, and shall, where it is preferred by any party other than the Deputy Commissioner be accompanied by a fee of one hundred rupees.

(3) If the High Court, on perusing the petition, considers that there is no sufficient ground for interfering, it may dismiss the petition summarily :

Provided that no petition shall be dismissed unless the petitioner has had a reasonable opportunity of being heard.

(4) (a) If the High Court does not dismiss the petition summarily, it shall, after giving both the parties to the petition a reasonable opportunity of being heard, determine the question of law raised and either reverse, affirm or amend the order against which the petition was preferred or remit the matter to the Appellate Tribunal, with the opinion of the High Court on the question of law raised or pass such order in relation to the matter as the High Court thinks fit.

(b) Where the High Court remits the matter under clause (a) with its opinion on the question of law raised, the Appellate Tribunal shall amend the order passed by it in conformity with such opinion.

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(5) Before passing an order under sub-section (4), the High Court may, if it considers it necessary so to do, remit the petition to the Appellate Tribunal, and direct it to return the petition with its finding on any specific question or issue.

(6) Notwithstanding that a petition has been preferred under sub-section (1), the tax shall be paid in accordance with the order against which the revision has been preferred :

Provided that the High Court may, in its discretion, give such directions as it thinks fit in regard to the payment of the tax before the disposal of the petition, if the petitioner furnishes sufficient security to its satisfaction, in such form and in such manner as may be prescribed.

(7) If as a result of the petition any change becomes necessary in such assessment, the High Court may direct the assessing authority to amend the assessment accordingly, and on such amendment being made, any amount overpaid by the assessee shall be refunded to him without interest, or the further amount of tax due from him shall be collected in accordance with the provisions of this Act, as the case may be.

(8) (a) The petitioner or the respondent may apply for review of any order passed by the High Court under clause (a) of sub-section (4) on the basis of the discovery of new and important facts which after the exercise of due diligence were not within his knowledge or could not be produced by him when the order was made.

(b) The application for review shall be preferred within such time, and in such manner as may be prescribed, and shall, where it is preferred by any party other than the Deputy Commissioner be accompanied by a fee of one hundred rupees.

(9) In respect of every petition or application preferred under sub-section (1), or clause (a) of sub-section (8) the costs shall be in the discretion of the High Court.

39. *Petitions, applications and appeals to High Court to be heard by a Bench of not less than two Judges.*—Every appeal preferred to the High Court under section 37 and every petition under section 38 shall be heard by a Bench of not less than two Judges, and in respect of such appeal or petition the provisions of section 98 of the Code of Civil Procedure, 1908 (Central Act V of 1908), shall, so far as may be, apply.

40. *Maintenance of true and correct accounts and records by dealers.*—Every person registered under this Act, every dealer liable to get himself registered under this Act, and every other dealer who is required so to do by the prescribed authority by notice served in the prescribed manner, shall keep and maintain a true and correct account in any of the languages specified in the

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Eighth Schedule to the Constitution, or in English, showing such particulars as may be prescribed; and different particulars may be prescribed for different classes of dealers.

41. *Powers to order production of accounts, and powers of entry, inspection, etc.*—(1) Any officer empowered by the Government in this behalf may, for the purposes of this Act, require any dealer to produce before him the accounts, registers and other documents, and to furnish any other information relating to his business.

(2) All accounts, registers and other documents maintained by a dealer in the course of his business, the goods in his possession, and his offices, shops, godowns, vessels or vehicles shall be open to inspection at all reasonable times by such officer :

Provided that no residential accommodation (not being a place of business-cum-residence) shall be entered into and search by such officer except on the authority of a search warrant issued by a Magistrate having jurisdiction over the area, and all searches under this sub-section shall, so far as may be, be made in accordance with the provisions of the Code of Criminal Procedure, 1898 (Central Act V of 1898).

(3) If any such officer has reason to suspect that any dealer is attempting to evade the payment of any tax, fee or other amount due from him under this Act he may, for reasons to be recorded in writing, seize such accounts, registers or other documents of the dealer as he may consider necessary, and shall give the dealer a receipt for the same. The accounts, registers and documents so seized shall be retained by such officer only for so long as may be necessary for their examination and for any inquiry or proceeding under this Act :

Provided that such accounts, registers and documents shall not be retained for more than thirty days at a time except with the permission of the next higher authority.

(4) Any such officer shall have power to seize and confiscate any goods which are found in any office, shop, godown, vessel, vehicle, or any other place of business or any building or place of the dealer, but not accounted for by the dealer in his accounts, registers and other documents maintained in the course of his business :

Provided that before ordering the confiscation of goods under this sub-section. the officer shall give the person affected an opportunity of being heard and make an inquiry in the prescribed manner.

Explanation.—It shall be open to the Government to empower different classes of officers for the purpose of taking action under sub-sections (1), (2) and (3).

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42. *Establishment of check post or barrier and inspection of goods while in transit.*—(1) If the Government consider that with a view to prevent or check evasion of tax under this Act in any place or places in the State, it is necessary so to do, they may, by notification, direct the setting up of a check post or the erection of a barrier or both, at such place or places as may be notified.

(2) At every check post or barrier mentioned in sub-section (1), or at any other place when so required by any officer empowered by the Government in this behalf, the driver or any other person in charge of any vehicle or boat shall stop the vehicle or boat, as the case may be, and keep it stationary as long as may reasonably be necessary, and allow the officer in charge of the check post or barrier, or the officer empowered as aforesaid, to examine the contents in the vehicle or boat and inspect all records relating to the goods carried, which are in the possession of such driver, or other person in charge, who shall, if so required, give his name and address and the name and address of the owner of the vehicle or boat as well as those of the consignor and the consignee of the goods.

(3) The officer in charge of the check post or barrier, or the officer empowered as aforesaid, shall have power to seize and confiscate any goods which are under transport by any vehicle or boat and are not covered by a delivery note, a Goods Vehicle Record, a Trip Sheet, or a Log Book, as the case may be, or by a bill of sale where one is required to be issued :

Provided that before ordering confiscation the officer shall give the person affected an opportunity of being heard and make an inquiry in the prescribed manner.

43. *Submission of certain records by owners, etc., of boats.*—The owner or other person in charge of a boat shall submit to the Commercial Tax Officer having jurisdiction over the area in which the goods are delivered copies of the log book with such further particulars, if any, and within such time, as may be prescribed under this Act.

44. *Submission of certain records by owners, etc., of goods vehicles.*—The owner or other person in charge of a goods vehicle shall submit to the Commercial Tax Officer having jurisdiction over the area in which the goods are delivered copies of the Goods Vehicle Record or Trip Sheet with such further particulars, and within such time, as may be prescribed under this Act.

45. *Offences and penalties.*—(1) Any person who—

(a) being an assessee under this Act, fails to submit a return as required by the provisions of this Act, or the rules made thereunder, or

(b) being a person obliged to register himself as a dealer under this Act, does not get himself registered, or

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(c) collects any amount by way of tax under this Act in contravention of the provisions of sub-section (1) of section 22 shall, on conviction by a Magistrate, not below the rank of a Second-class Magistrate, be liable to fine which may extend to two hundred rupees.

(2) Any person who—

(a) wilfully submits an untrue return, or, not being already an assessee under this Act, fails to submit a return as required by the provisions of this Act or the rules made thereunder, or

(b) fraudulently evades the payment of any tax assessed on him or any fee or other amount due from him under this Act, or

(c) dishonestly objects to a notice issued to him under sub-section (1) of section 26, or

(d) wilfully acts in contravention of any of the provisions of this Act, or

(e) after purchasing any goods in respect of which he has made a declaration under the proviso to sub-section (3) of section 3 fails without reasonable excuse to make use of the goods for the declared purpose;

shall, on conviction by a Presidency Magistrate or a Magistrate of the First-class, be liable to a fine which may extend to one thousand rupees and in the event of a second or subsequent conviction, to simple imprisonment which may extend to six months or a fine which may extend to two thousand rupees or both.

(3) Any person who—

(a) prevents or obstructs inspection, entry, search or seizure by an officer empowered under section 41, or

(b) prevents or obstructs inspection of any goods vehicle, or boat carrying goods, by an officer in charge of a check post or barrier or any officer empowered under section 42 shall, on conviction, be liable to simple imprisonment which may extend to six months or a fine which may extend to two thousand rupees or both.

46. *Composition of offences.*—The prescribed authority may accept from any person who has committed or is reasonably suspected of having committed an offence against this Act, by way of composition of such offence—

(a) where the offence consists of the failure to pay, or the evasion of, any tax recoverable under this Act, in addition to the tax so recoverable, a sum of money not exceeding one thousand rupees or double the amount of the tax recoverable, whichever is greater, and

(b) in other cases, a sum of money not exceeding one thousand rupees.

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47. *Cognizance of offences.*—No prosecution for any offence under sub-section (3) of section 45 shall be instituted except with the written consent of the Deputy Commissioner.

48. *Assessment, etc., not to be questioned in prosecution.*—

(1) The order of assessment made under this Act shall be conclusive evidence in any prosecution or other proceeding.

(2) The validity of the assessment of any tax, or of the levy of any fee or other amount, made under this Act, or the liability of any person to pay any tax, fee or other amount so assessed or levied shall not be questioned in any criminal court in any prosecution or other proceeding, whether under this Act or otherwise.

49. *Bar of certain proceedings.*—(1) No suit, prosecution or other proceeding shall lie against any officer or servant of the Government for any act done or purporting to be done under this Act, without the previous sanction of the Government.

(2) No officer or servant of the Government shall be liable in respect of any such act in any civil or criminal proceeding if the act was done in good faith in the course of the execution of duties or the discharge of functions imposed by or under this Act.

50. *Limitation for certain suits and prosecutions.*—No suit shall be instituted against the Government and no suit, prosecution or other proceeding shall be instituted against any officer or servant of the Government in respect of any act done or purporting to be done under this Act, unless the suit, prosecution or other proceeding is instituted within six months from the date of the act complained of.

51. *Bar of suits and proceedings to set aside or modify assessments as provided in this Act.*—No suit or other proceeding shall, except as expressly provided under this Act be instituted in any court to set aside or modify any assessment made under this Act.

52. *Appearance before any authority in proceedings.*—Any person who is entitled to appear before any authority other than the High Court in connection with any proceedings under this Act may be represented before such authority—

(a) by his relative or a person regularly employed by him, if such relative or person is duly authorized by him in writing in this behalf; or

(b) by a legal practitioner; or

(c) subject to such conditions, as may be prescribed, by an accountant or sales tax practitioner possessing the prescribed qualifications and duly authorized by him in writing in this behalf.

53. *Power to make rules.*—(1) The Government may make rules to carry out the purposes of this Act.

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(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) all matters expressly required or allowed by this Act to be prescribed;

(b) determining the total turnover or turnover of a dealer for the purposes of this Act;

(c) the assessment to tax under this Act of business which is discontinued or the ownership of which has changed;

(d) the assessment to tax under this Act of business owned by minors and other incapacitated persons or by persons residing outside the State;

(e) the assessment of a business owned by any person whose estate or any portion of whose estate is under the control of the Court of Wards, the Administrator-General, the Official Trustee, or any receiver or manager appointed by or under any order of a Court;

(f) the administration of the check posts set up and barriers erected under this Act and the regulation of the work thereon;

(g) the disposal of goods confiscated under this Act and of the proceeds thereof;

(h) compelling the submission of returns;

(i) the form in which and the particulars to be contained in any declaration to be given under this Act, the authority from whom, the conditions subject to which and the fees subject to payment of which any form of declaration prescribed under subsection (3) of section 3 may be obtained, the manner in which the form shall be kept in custody and records relating thereto maintained, the manner in which any such form may be used and any such declaration may be furnished;

(j) the duties and powers of officers appointed for the purpose of enforcing the provisions of this Act;

(k) the term of office, and the conditions of service, of the members of the Appellate Tribunal;

(l) the circumstances in which and the extent to which, fees paid in pursuance of section 36 may be refunded;

(m) the issue of bills or cash memoranda, the class or classes of dealers who should maintain counterfoils for the same and the particulars to be shown in and the manner of maintenance of such counterfoils and the time for which they should be preserved;

(n) the maintenance of purchase bills or accounts of purchases and sales by dealers and the time for which they should be preserved;

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(o) the issue of delivery notes in respect of goods delivered or transferred to retail dealers in pursuance of sales effected to them, the form and manner of their issue and the time for which they should be preserved;

(p) generally regulating the procedure to be followed and the forms to be adopted in proceedings under this Act.

(3) (a) In making a rule under sub-section (1) or sub-section (2), the Government may provide that a person guilty of a breach thereof shall be punishable with fine which may extend to one thousand rupees and, where the breach is a continuing one, with further fine which may extend to fifty rupees for every day after the first during which the breach continues.

(b) No Court inferior to that of a Presidency Magistrate or a Magistrate of the Second-class shall inquire into or try any offence consisting of a breach of a rule.

(4) All rules made under this section shall be published in the *Fort St. George Gazette*, and upon such publication shall have effect as if enacted in this Act.

(5) All rules made and all notifications issued under this Act shall, as soon as possible after they are made, be placed on the Table of both the Houses of the Legislature and shall be subject to such modifications by way of amendment or repeal as the Legislature may make either in the same session or in the next session.

54. *Power to summon witnesses and production of documents.*—

An assessing authority or any appellate or revising authority (including the Appellate Tribunal) or any officer of the Commercial Taxes Department not lower in rank than an Assistant Commercial Tax Officer shall, for the purposes of this Act, have all the powers conferred on a court by the Code of Civil Procedure, 1908 (Central Act V of 1908), for the purpose of—

(a) summoning and enforcing the attendance of, any person and examining him on oath or affirmation; and

(b) compelling the production of any document.

55. *Power to rectify any error apparent on the face of record.*—

(1) An assessing authority or an appellate or revising authority (including the Appellate Tribunal) may, at any time within three years from the date of any order passed by it, rectify any error apparent on the face of the record :

Provided that no such rectification which has the effect of enhancing an assessment or any penalty shall be made unless such authority has given notice to the dealer and has allowed him a reasonable opportunity of being heard.

(2) Where such rectification has the effect of reducing an assessment or penalty, the assessing authority shall make any refund which may be due to the dealer.

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(3) Where any such rectification has the effect of enhancing an assessment or penalty, the assessing authority shall give the dealer a revised notice of assessment or penalty and thereupon the provisions of this Act and the rules made thereunder shall apply as if such notice had been given in the first instance.

56. *Power to remove difficulties.*—(1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, as occasion may require, by order, do anything which appears to them necessary for the purpose of removing the difficulty.

(2) All orders made under sub-section (1) shall as soon as possible after they are made be placed on the Table of both the Houses of the Legislature and shall be subject to such modifications by way of amendments or repeal as the Legislature may make either in the same session or in the next session.

57. *Prohibition of disclosure of particulars produced before Sales Tax Authorities.*—(1) All particulars contained in any statement made, return furnished or accounts or documents produced under the provisions of this Act or in any evidence given or affidavit or deposition made, in the course of any proceeding under this Act or in any record of any proceeding relating to the recovery of a demand, prepared for the purposes of this Act shall be treated as confidential and shall not be disclosed.

(2) Nothing contained in sub-section (1) shall apply to the disclosure of such particulars—

(i) for the purpose of prosecution under the Indian Penal Code (Central Act XLV of 1860) or under this Act in respect of any such statement, return, accounts, documents, evidence, affidavit or deposition; or

(ii) to any person enforcing the provisions of this Act where it is necessary to disclose the same to him for the purposes of this Act; or

(iii) occasioned by the lawful employment under this Act of any process for the recovery of any demand; or

(iv) to a civil court in any suit to which the Government are party and which relates to any matter arising out of any proceeding under this Act; or

(v) occasioned by the lawful exercise by a public servant of his powers under the Indian Stamp Act, 1899 (Central Act II of 1899) to impound an insufficiently stamped document; or

(vi) to an officer of—

(a) the Government of India; or

(b) the Government of any State or Union Territory in India with which an agreement for disclosure on a reciprocal basis has been entered into by the Government of the State; or

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(vii) to an officer of any department other than the Commercial Taxes Department of the State Government after obtaining—

(a) the permission of the Commercial Tax Officer of the district where such particulars are to be furnished by an officer subordinate to the Commercial Tax Officer; and

(b) the permission of the Board of Revenue where such particulars are to be furnished by a Commercial Tax Officer or an Appellate Assistant Commissioner or a Deputy Commissioner :

Provided that such particulars shall be furnished under clause (vii) only in exceptional cases and that any officer obtaining such particulars shall keep them as confidential and use them as confidential and use them only in the lawful exercise of the powers conferred by or under any enactment;

(viii) Nothing herein contained shall prevent the publication of the final assessment of any party in the prescribed manner.

58. *Sale or purchase deemed to have taken place inside the State in certain cases.*—(1) Any sale or purchase which took place on or before the 6th day of September 1955 shall be deemed to have taken place inside the State if the goods have actually been delivered as a direct result of such sale or purchase for the purpose of consumption in the State, notwithstanding the fact that under the general law relating to sale of goods the property in the goods has by reason of such sale or purchase passed in another State, and be subject to tax under this Act accordingly.

(2) The provisions of this section shall not affect the liability to tax of any sale or purchase under any other provision of this Act.

59. *Power to amend Schedules.*—(1) The Government may, by notification, alter, add to or cancel any of the Schedules.

(2) Where a notification has been issued under sub-section (1), there shall, unless the notification is in the meantime rescinded, be introduced in the Legislature, as soon as may be, but in any case during the next session of the Legislature following the date of the issue of the notification, a Bill on behalf of the Government, to give effect to the alteration, addition or cancellation, as the case may be, of the Schedules specified in the notification; and the notification shall cease to have effect when such Bill becomes law, whether with or without modifications, but without prejudice to the validity of anything previously done thereunder :

Provided that if the notification under sub-section (1) is issued when the Legislature is in session, such a Bill shall be introduced in the Legislature during that session;

Provided further that where for any reason a Bill as aforesaid does not become law within six months from the date of its introduction in the Legislature, the notification shall cease to have effect on the expiration of the said period of six months.

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(3) All references made in this Act to any of the Schedules shall be considered as relating to the Schedules as for the time being amended in exercise of the powers conferred by this section,

60. *Certain transactions deemed to be first sales or purchases.*—Notwithstanding anything contained in this Act, the sale or purchase of such of those goods—

(i) as were not liable to tax only at the point of first sale or purchase before the commencement of this Act; and

(ii) as are liable to tax only at the point of first sale or purchase under sub-section (2) of section 3 of this Act; effected within the State after the commencement of this Act shall be deemed to be the first sale or purchase for the purposes of this Act, although any sale or purchase of such goods has taken place within the State before such commencement.

61. *Repeal.*—(1) The Madras General Sales Tax Act, 1939 (Madras Act IX of 1939) is hereby repealed :

Provided that such repeal shall not affect the previous operation of the said Act or any right, title, obligation or liability already acquired, accrued or incurred thereunder and subject thereto, anything done or any action taken including any appointment, notification, notice, order, rule, form, regulation, certificate, licence or permit in the exercise of any power conferred by or under the said Act shall be deemed to have been done or taken in the exercise of the powers conferred by or under this Act, as if this Act were in force on the date on which such thing was done or action was taken, and all arrears of tax and other amounts due at the commencement of this Act may be recovered as if they had accrued under this Act.

(2) Notwithstanding anything contained in sub-section (1) any application, appeal, revision or other proceeding made or preferred to any officer or authority under the said Act and pending at the commencement of this Act, shall after such commencement, be transferred to and disposed of by the officer or authority who would have had jurisdiction to entertain such application, appeal, revision or other proceeding under this Act if it had been in force on the date on which such application, appeal, revision or other proceeding was made or preferred.

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THE FIRST SCHEDULE.

GOODS IN RESPECT OF WHICH SINGLE POINT TAX IS LEVIABLE
UNDER SUB-SECTION (2) OF SECTION 3.

Serial number.	Description of the goods.	Point of levy.	Rate of tax.
(1)	(2)	(3)	(4)
			PER CENT
1	Typewriters, tabulating machines, calculating machines and duplicating machines and parts thereof.	At the point of first sale in the State.	7
2	All clocks, timepieces, and watches and parts thereof.	Do.	7
3	Motor vehicles including motor cars, motor taxi cabs, motor cycles and cycle combinations, motor scooters, motorettes, motor omnibuses, motor vans and motor lorries, chassis of motor vehicles, component parts of motor vehicles: articles (including rubber and other tyres and tubes and batteries) adapted for use as parts and accessories of motor vehicles not being such articles as are ordinarily also used for purposes other than as parts or accessories of motor vehicles.	Do.	7
4	Refrigerators, air conditioning plants, component parts of refrigerators or air conditioning plants.	Do.	7
5	Wireless reception instruments and apparatus, radios and radio gramophones, electrical valves, accumulators, amplifiers, and loud speakers and spare parts and accessories thereof.	Do.	7
6	Cinematographic equipment including cameras, projectors, sound recording and reproducing equipment, lenses, films, and parts and accessories required for use therewith.	Do.	7
7	Photographic and other cameras, and enlarger, lens, films, plates, paper, cloth and other parts and accessories required for use therewith.	Do.	7
8	Binoculars, telescopes and opera glasses.	Do.	7
9	Gramophones and component parts thereof and records.	Do.	7
10	Dictaphone and other similar apparatus for recording sound and spare parts thereof.	Do.	7
11	Sound transmitting equipment including telephones and loud speakers and spare parts thereof.	Do.	7
12	All arms including rifles, revolvers, pistols, and ammunition for the same.	Do.	7
13	Iron and steel safes and almirahs ..	Do.	7
14	Mechanical lighters and cigarette cases.	Do.	7

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Serial number.	Description of the goods.	Point of levy.	Rate of tax.
(1)	(2)	(3)	(4)
			PER CENT.
15	Bullion and specie	At the point of first sale in the State.	$\frac{1}{2}$
16	Cotton waste	Do.	1
17	Cotton yarn waste	Do.	1
18	Artificial silk yarn and staple fibre yarn.	Do.	1
19	Jari	Do.	2
20	All vegetable oils	Do.	3
21	Chemical fertilizers, that is to say— (1) ammonium sulphate, (2) ammonium nitrate, (3) urea, (4) ammonium chloride, (5) sodium nitrate, (6) calcium ammonium nitrate, (7) superphosphate single, (8) superphosphate triple, (9) kotka phosphate (10) di-calcium phosphate, (11) potassium chloride (muriate of potash), (12) sulphate of potash, (13) mono ammonium phosphate, (14) di-ammonium phosphate, (15) Bonemal, (16) any mixture of one or more of the articles mentioned in items (1) to (15) and one or more of the organic manures.	Do.	3
22	Any pen, pencil or pen and pencil set, sold for Rs. 20 or more.	Do.	3
23	Machinery (other than those falling under item 42, including any article, implement, contrivance, apparatus or part of such machinery made of any metal (not) being a typewriter, tabulating machine, calculating machine and duplicating machine and parts thereof), hardware iron and steel (other than those mentioned under declared goods) and all articles made therefrom (excluding articles used for agricultural purposes) and all items specifically provided in the schedule.	Do.	3
24	Milk foods (excluding fresh milk) but including milk powder.	Do.	3
25	Asafoetida	Do.	3
26	All kinds of wood and timber and similar articles (excluding firewood and charcoal).	Do.	3
27	Ice and ice fruits	Do.	3
28	Confectionery (tinned, packed or otherwise).	Do.	3
29	Biscuits and cakes (packed, tinned or otherwise) excluding bread.	Do.	3
30	Precious stones, namely, diamonds, emeralds, rubies, real pearls and sapphires, whether they are sold loose or as forming part of any article in which they are set.	Do.	3

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Serial number.	Description of the goods.	Point of levy.	Rate of tax.
(1)	(2)	(3)	(4)
			PER CENT.
31	Chicory	At the point of first sale in the State.	5
32	Coffee, that is to say, any one of the forms of coffee such as coffee bean, coffee seed (raw or roasted) coffee powder, but not including coffee drink.	Do.	5
33	French coffee (if the coffee portion of the French coffee has not already suffered tax in this State under item 32).	Do.	5
34	Ce ment	Do.	5
35	Kerosene	Do.	5
36	Tea, that is to say, any one of the forms of tea in which it is sold but not including tea drink.	Do.	5
37	Soaps	Do.	5
38	Bicycles, tandem cycles and cycle combination, tyres, tubes and accessories and parts.	Do.	5
39	Leather goods of all kinds excluding footwear.	Do.	5
40	Foamed rubber sheet, cushions, pillows and other like articles.	Do.	6
41	All electrical goods, instruments, apparatus, appliances and all such articles, the use of which cannot be had except with the application of electric energy, including fans, lighting bulbs, electrical earthen- ware and porcelain and all other accessories and component parts either sold as a whole or in parts.	Do.	6
42	Crockery and cutlery, including knives, forks and spoons, articles made of glass, China porcelain or glazed earthenware adapted for domestic use.	Do.	6
43	Vacuum flasks of all kinds	Do.	6
44	Upholstered furniture, sofa sets, dressing table and furniture of all types including those made of steel and pile carpets (other than those mentioned in item 13.)	Do.	6
45	Vegetable products, that is to say, any vegetable oil or fat, which whether by itself or in admixture with any other substance, has by hydrogenation or by any other process been hardened for human consumption.	Do.	6
46	Paints colours and varnish litho- graphic printing, and duplicating inks.	Do.	6
47	Lubricating oils and greases	Do.	6

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Serial number.	Description of the goods.	Point of levy.	Rate of tax.
(1)	(2)	(3)	(4)
			PER CENT.
48	Tinned, canned, bottled or packed foods or provision (excluding those mentioned under items 25, 29 and 30).	At the point of first sale in the State.	6
49	Camphor	Do.	6
50	Mercury	Do.	6
51	Scents and perfumes, powders, snows, scented hair oils, scented sticks, cosmetics and toilet requisites, except soap.	Do.	6
52	Fur and skins (other than those of cattle, sheep and goats) and articles of personal or domestic use, made therefrom.	Do.	6
53	Fire works, including coloured matches.	Do.	6
54	Glassware bottles and phials, funnels, globes, glass parts of lamps, sheets and other plates, and photo and other frames.	Do.	6
55	All varieties of tractors and bulldozers.	Do.	6
56	Plastic sheets and fabrics and articles made therefrom.	Do.	6
57	Folding umbrellas and parts.	Do.	6
58	Musical instruments	Do.	6
59	Wool, bark including dying and tanning materials.	At the point of last purchase in the State.	3
60	Raw wool	Do.	3
61	Palmyra fibres and stalks	Do.	2
62	Sugarcane	Do.	3
63	Potatoes	At the point of first purchase in the State.	2

THE SECOND SCHEDULE

DECLARED GOODS IN RESPECT OF WHICH A SINGLE-POINT TAX ONLY IS LEVIABLE UNDER SECTION 4.

Serial number.	Description of the goods.	Point of levy.	Rate of tax.
(1)	(2)	(3)	(4)
			PER CENT.
1	Coal, including coke in all its forms ..	At the point of first sale in the State.	2
2	Cotton, that is to say all kinds of cotton (indigenous or imported) in its unmanufactured state, whether ginned or unginned, baled, pressed or otherwise, but excluding cotton waste.	At the point of last purchase in the State.	1

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Serial number.	Description of the goods.	Point of levy.	Rate of tax.
(1)	(2)	(3)	(4)
			PER CENT.
3	Cot'on yarn, but excluding cotton yarn waste.	At the point of first sale in the State.	1
4	Iron and steel, that is to say— (a) pig iron and iron scrap; (b) iron plates sold in the same form in which they are directly produced by the rolling mill; (c) steel scarp, steel ingots, steel billets, steel bars and rods; and (d) (i) Steel plates; (ii) Steel sheets; (iii) Steel bars and tin bars; (iv) rolled steel sections; and (v) tool alloy steel Items (i) to (v) sold in the same form in which they are directly produced by the rolling mill.	Do.	2
5	Jute, that is to say, the fibre extracted from plants belonging to the species <i>corchorus capsularis</i> and <i>corchorus olivaceus</i> and the fibre known as mesta or birmi extracted from plants of the species <i>hibiscus Cannabinus</i> and <i>hibiscus sandwicensis</i> or otherwise, whether baled or otherwise.	Do.	2
6 (a)	Oil-seeds, other than cardamom that is to say, seeds yielding non-volatile oils used for human consumption or in industry, or in the manufacture of varnishes, soaps and the like or in lubrication and volatile oil used chiefly in medicines, perfumes, cosmetics and the like.	Do.	2
(b)	Cardamom	At the point of first purchase in the State.	2
7 (a)	Raw hides and skins	At the point of last purchase in the State.	2
(b)	Dressed hides and skins (which were not subjected to tax under this Act as raw hides and skins).	At the point of first sale in the State.	1

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THE THIRD SCHEDULE.

GOODS EXEMPTED FROM TAX BY SECTION 8.

Description of goods.

- 1 Motor spirit as defined in the Madras Sales of Motor Spirit Taxation Act, 1939 (Madras Act VI of 1939).
- 2 Tobacco and its products.
- 3 Any goods on which duty is levied or leviable under the Madras Prohibition Act, 1937 (Madras Act X of 1937), or the Opium Act 1878 (Central Act I of 1878) on the entire quantity of such goods and not merely on any ingredient which forms part of such goods.
- 4 All varieties of textiles (other than durries, carpets, druggets and pure silk cloth) made wholly or partly of cotton, staple fibre rayon artificial silk or wool including handkerchiefs, towels, napkins, dusters, cotton veils and velveteen, tapes, niwars and laces and hosiery cloth in lengths.
- 5 Sugar including jaggery and gur.
- 6 Handspun yarn.
- 7 Handloom cloth.

I certify that this is a Money Bill.

U. KRISHNA RAU,
Speaker,
 Madras Legislative Assembly.

வாய்மையே வெல்லும்
 TRUTH ALONE TRIUMPHS